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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Carl J. G. Evertsz

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/870,388	Applicant(s) EVERTSZ, CARL J. G.	
	Examiner Mike Tomaszewski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 11/22/07. Claims 1-23 have been cancelled and claims 24, 28, 31, and 39 have been amended. Claims 40-43 are newly added. Claims 24-43 are pending.

Claim Rejections - 35 USC § 112

2. The 35 USC § 112 rejections of claims 28 and 29 are hereby withdrawn based on Applicant's amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 24, 26-29, 31, 34-37, and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile (6,669,482; hereinafter Shile), in view of Buckley et al. (6,551,107; hereinafter Buckley).

(A) As per currently amended claim 24, Shile discloses a computer system for in-service monitoring of a user screening medical cases comprising:

- (1) a case stack of undiagnosed real cases to be reviewed by a user (Shile: col. 5, lines 60-64);
- (2) a library of known cases (Shile: col. 5, lines 60-64);
- (3) a user interface component for requesting a consecutive case, for display of the consecutive case, and for entering a diagnosis of the consecutive case (Shile: col. 8, lines 39-41);
- (4) a program component for receiving a request for a consecutive case from the user interface, the program component selecting the consecutive case from the case stack of real cases or the library of known case for the display and the diagnosis (Shile: col. 8, lines 39-41; Examiner considers a graphical user interface (GUI) to read on "program component."); and
- (5) a feedback component for outputting a message to the user (Shile: col. 9, lines 50-51)

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Shile, however, fails to *expressly* disclose a computer system for screening of medical cases comprising:

- (6) outputting a message to the user if the user diagnosis of the known case is incorrect.

Nevertheless, this feature is old and well known in the art, as evidenced by Buckley. In particular, Buckley discloses a computer system for screening of medical cases comprising:

- (6) outputting a message to the user if the user diagnosis of the known case is incorrect (Buckley: col. 7, lines 20-22).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Buckley with the teachings of Shile with the motivation of providing an interactive educational environment (Buckley: col. 3, lines 1-2).

(B) As per previously presented claim 26, Shile discloses a computer system as set forth in claim 24 further comprising a session preparation component for initializing the case stack and for specifying an absolute number or a percentage of known cases to be selected by the program component during the screening of the case stack by the user (Shile: col. 5, lines 2-7, 53-54 and 66-67; col. 6, lines 53-67; col. 7, lines 1-54).

Examiner notes that Shile teaches the creation of various data sets of known cases. As such, the capability of creating (i.e., specifying) a particular number of known cases to be selected during screening of cases is obvious.

(C) As per previously presented claim 27, Shile discloses a computer system as set forth in claim 26 wherein the session preparation component enables specifying a category for the known cases (Shile: col. 5, lines 53-54 and lines 66-67; col. 6, lines 53-67; col. 7, lines 1-54).

Examiner notes that Shile teaches one to create (i.e., specify) various data sets (i.e., categories) of known cases to be used for radiologic training.

(D) As per currently amended claim 28, Shile discloses a computer system as set forth in claim 24 further comprising a user action component for tracing of user input actions and of the feedback component (Shile: col. 8, lines 59-61; col. 9, lines 23-25).

(E) As per previously presented claim 29, Shile Fails to *expressly* disclose a computer system as set forth in claim 28 further comprising a user action report generation component being coupled to the user action component for generating a user action report for the purposes of quality monitoring and assurance.

Nevertheless, this feature is old and well known in the art, as evidenced by Buckley. In particular, Buckley discloses a computer system as set forth in claim 28 further comprising a user action report generation component being coupled to the user

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action component for generating a user action report for the purposes of quality monitoring and assurance (Buckley: col. 4, lines 30-33; col. 14, lines 63-67; col. 15-10).

One of ordinary skill would have found it obvious at the time of the invention to include the teaching of Buckley with the teachings of Shile with the motivation of providing an interactive educational environment (Buckley: col. 3, lines 1-2).

(F) Currently amended claim 31 substantially repeats the same limitations of new claim 24 and therefore, is rejected for the same reasons given for new claim 24 and incorporated herein.

(G) Claims 34-37 substantially repeat the same limitations of new claims 26-29 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(H) Claims 39 and 40 substantially repeat the same limitations of claim 24 and therefore, are rejected for the same reasons given for claim 24 and incorporated herein.

(I) As per new claim 41, Shile discloses the computer system according to claim 40, wherein said threshold is one (Shile: col. 10, lines 24-45).

(J) As per new claim 42, Shile discloses the computer system of claim 40, wherein said given number is a total number of the real cases (Shile: col. 10, lines 46-63).

5. Claims 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile, in view of Nishikawa et al. (6,058,322; hereinafter Nishikawa).

(A) As previously presented claim 25, Shile fails to *expressly* disclose a computer system as set forth in claim 24 further comprising a pseudo-random component for generation of a pseudo-random number, the program component being coupled to the pseudo-random component for determining the selection of the consecutive case from the case stack of real cases or the library of known cases based on the output of the pseudo-random component.

Nevertheless, this feature is old and well known in the art, as evidenced by Nishikawa. In particular, Nishikawa discloses a computer system as set forth in claim 24 further comprising a pseudo-random component for generation of a pseudo-random number, the program component being coupled to the pseudo-random component for determining the selection of the consecutive case from the case stack of real cases or the library of known cases based on the output of the pseudo-random component (Nishikawa: col. 22, lines 20-22).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings Nishikawa with the combined teachings of Shile and Buckley with the motivation of providing an automated method and system for displaying medical images (Nishikawa: col. 4, lines 41-46).

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Examiner also notes that Shile teaches one to randomly arrange the order of exams (i.e., cases) (See Shile: col. 8, lines 44-45).

(B) Previously presented claim 32 substantially repeats the same limitations of claim 25, and therefore, is rejected for the same reason given for claim 25 and incorporated herein.

6. Claims 30, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile, in view of Leiper (6,128,002; hereinafter Leiper).

(A) As per previously presented claim 30, Shile discloses a computer system as set forth in claim 24 further comprising a mode selection component for selecting a random mode (Shile: col. 8, lines 44-45).

Shile, however, fails to *expressly* disclose the computer system of claim 24 further comprising a fixed mode.

Nevertheless, this feature is old and well known in the art, as evidenced by Leiper. In particular Leiper discloses a computer system as set forth in claim 24 further comprising a fixed mode (Leiper: col. 1, lines 35-37) for the operation of the program component.

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Leiper with the combined teachings of Shile and Buckley with the motivation of providing an apparatus and method for navigation of electronic images

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and documents that increases the diagnosing physician's efficiency in using the system (Leiper: col. 2, lines 28-32).

(B) Claims 33 and 38 substantially repeat the same limitations of claim 30, and therefore, are rejected for the same reason given for claim 30 and incorporated herein.

7. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shile and Buckley, as applied to claim 40 above, and further in view of Official Notice.

(A) As per new claim 43, Shile fails to *expressly* disclose the computer system according to claim 40, further comprising a timer, said timer preventing the user from making further diagnoses for a given amount of time after the threshold has been reached.

Nevertheless, Examiner takes Official Notice of the technique of terminating a procedure (e.g., training/educational session) for a predetermined amount of time after a threshold (e.g., a number of incorrect responses) has been reached. For example, many training programs incorporate this technique to optimize learning efficiency.

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings Official Notice with the combined teachings of Shile and Buckley with the motivation of enhance diagnostic accuracy (Shile: col. 3, lines 12-15).

Response to Arguments

8. Applicant's arguments filed 11/22/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 11/22/06.

(A) On page 7 of the 11/22/06 response, Applicant argues that Shile is merely applicable to methods for training.

In response, Examiner respectfully submits that Shile teaching of a training method is merely one of several preferred embodiments. Moreover, In response to applicant's argument that Applicant's claimed invention is used for "in-service monitoring", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(B) On pages 7-8 of the 11/22/06 response, Applicant argues that Examiner's analysis of Shile was incorrect. More specifically, Applicant argues that Shile only teaches the use of "previously examined" cases and not "undiagnosed" real cases.

In response, Examiner respectfully submits that a broad, yet reasonable, interpretation of Shile does indeed also teach the use of "undiagnosed" real cases for

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"in-service monitoring" and not just "previously examined" real cases for training purposes. For example, Shile teaches the following:

The method requires that trainees interpret a set of mammograms so that data can be collected. For a practicing radiologist or other interpreter, these can be mammograms **interpreted in the course of their practice...** Alternatively, mammographic test sets can be created to be read by an interpreter.

Examiner notes, in particular, Shile's teaching that real cases can be "interpreted in the course of their practice" (i.e., "in-service monitoring" of "undiagnosed" real cases) or alternatively, test sets of real cases previously examined can be created.

(C) Applicant's remaining arguments in the response filed 11/22/06 rely on or re-hash the issues addressed above and therefore, are moot in view of the responses given above and incorporated herein.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT



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